Competitive Sourcing

Pre-Award Role of the Contracting Officer

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- Intended Audience:

  Attendees should be participants in or planning to participate in a competitive sourcing acquisition.

  Recommend attendees have some knowledge of the policy set forth in OMB Circular A-76.

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- Training Track Objectives:
  - Focus will be on the pre-award phase.
  - Understand what a Contracting Officer (CO) must "determine" before awarding a contract.
  - Understand roles of COs in A-76 competitions.
  - Understand the importance of other A-76 competition players, early planning, communications, and firewalls during the pre-award acquisition process.

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- Competitive Sourcing as defined by GAO in GAO-06-72 (December 2005):
- ✓ **(1) WHAT:** "Competitive sourcing is a management tool used by federal agencies to determine whether commercial activities, such as maintenance of facilities or information technology support, should be performed by federal employees or contractors."

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- ✓ **(2) WHY:** "Agencies use competition between the public and private sectors to determine the best source. Competitive sourcing is intended to encourage innovation and improve efficiency and performance."
- ✓ **(3) HOW:** "Competition between the two sectors is conducted under procedures prescribed in OMB Circular A-76, which was revised in 2003 to reflect the recommendations of the congressionally chartered Commercial Activities Panel."

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"FAR-type"

- Commercial Activities Panel (CAP) Final Report
  [April 2002]
- CAP used the term "FAR-type"
- CAP Report was basis for revised OMB Cir A-76:

  "OMB should develop and oversee the implementation of a FAR-type, integrated competition process." [CAP, p.53]

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- Before CO may award ANY contract...
- FAR requires CO to determine bids/proposals are:
  - Responsive to solicitation
  - Responsible source
  - Fair & Reasonable price (price = costs + profit)
- Funds are available

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Preliminary Planning "Steps"

(OMB Cir. A-76, Attachment B, Paragraph A)

- Scope {CO}
- **Grouping {CO}**
- Workload Data and Systems {CO}
- Baseline Costs {CO}
- **Type of Competition {CO}**
- **Schedule {CO}**
- **Roles and Responsibilities of Participants {CO}**
- **Competition Officials {CO}**
- **Incumbent Service Providers {CO}**

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Preliminary Planning

(THE "KEY" TO SUCCESS)

- CO # 1

✓ Review Grouping

✓ Market Survey

✓ Meetings with Industry

✓ Bundling Analysis

✓ Pre-Acquisition Strategy (i.e., Army Service Strategy Panel (ASSP))

✓ Develop estimated Acquisition Timelines

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Solicitation

- CO # 1

✓ FedBizOpps Announcement (Competition Starts)

✓ Supports PWS Team

✓ Prepare ASSP documents and brief the Panel

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- CO # 2

✓ Supports ATO and MEO Team

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Evaluation

- CO # 1

✓ Support Source Selection Evaluation Board

✓ Announce Initial Performance Decision in FedBizOpps (Competition Stops)

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- CO # 2

✓ Supports ATO and MEO Team

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Contests/Protests

- CO # 1

✓ Receive Contests

✓ Supports Government lawyers

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- CO # 2

✓ Supports ATO and MEO Team

✓ Supports lawyers representing (1) ATO and (2) MEO Team

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Solicitation/PWS Team

- CO # 1
- Human Resource Advisor # 1
- Legal Advisor # 1
- Small Business Advisor # 1
- Support Contractor # 1
- Subject Matter Experts # 1

ATO & MEO Team

- CO # 2
- Human Resource Advisor # 2
- Legal Advisor # 2
- Small Business Advisor # 2
- Support Contractor # 2
- Subject Matter Experts # 2

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"95% of the Time"

- Support Contractor # 2 will provide the MEO:

✓ Contracting "guidance"
✓ Human Resource "guidance"
✓ Small Business "guidance"
✓ Subject Matter Expert "guidance"
✓ Legal "guidance"

- MEO will probably need more than "guidance" in terms of **HR** and **Legal** support (e.g., PD approvals and representation at contests/protests).

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FIREWALLS ARE CRITICAL

Jones/Hill Joint Venture GAO Decisions

- GAO Decision B-286194.**2** (Dec 8, 2000)
- GAO Decision B-286194.**4**, .**5**, .**6** (Dec 5, 2001)
- GAO Decision B-286194.**7** (May 29, 2002)
- Conflict of Interest: Navy employee and A-76 support contractor wrote the PWS and then prepared the MEO's management plan.

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IMPORTANT POINTS:

- CO # 1 is NOT CO # 2
- ATO/MEO are NOT “contractors”; but must be treated like contractors
- Firewalls - Firewalls - Firewalls

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IMPORTANT POINTS:

- Preliminary Planning is “Key to Success”
- Involve CO # 1 Early in the Planning Process
- DAU has A-76 courses

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Questions & Answers